

United States District Court  
Southern District New York

Lenard Berrian, Plaintiff,  
-against-

The City of New York;  
Police Officer Mohammed  
Diongo, Shield #07534;

Police Officer Daniel Bernstein,  
Shield #00576, in their official  
and individual capacities,

Defendants.

16-cv-07387  
(JGK)

Amended  
Complaint

Jury Trial  
Requested

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #: \_\_\_\_\_  
DATE FILED: 1-3-17

I. Legal Basis for Claim is 42 U.S.C 1983 for  
violations of federal rights and state  
statutory & constitutional rights pursuant  
Article I Section 12

II. Plaintiffs' Information

Lenard Berrian #16A0127  
Sing-Sing Correctional Facility  
354 Hunter Street  
Ossining, New York 10562

### III. Prisoner Status is State Sentenced

### IV. Defendants Information

Defendant 1: City of New York

Dept of Law - Corporation Counsel  
100 Church Street  
New York, NY

Defendant 2: Daniel Bernstein,

Police officer, shield #00576,  
Emergency Service Unit  
Floyd Bennett Field,  
New York, NY

Defendant 3: Mohammed Donyo,

Police Officer, shield 07534  
Detective Bureau of Manhattan  
South, 230 East 21st Street  
New York, NY

### V. Statement of Claim

#### Facts

1) On January 15, 2014 between times of 6-9 pm, while plaintiff (African American) and another individual (African American) were walking and talking on the block of 43rd Street between

'8th & 9th Avenues, and unidentified police car posing as a yellow taxi cab abruptly stopped and two (2) uniformed officers jumped out and quickly rushed towards plaintiff and other individual. The officers were Mohammed Donyo, Shield #07534 and Daniel Bernstein, Shield #00576. Upon officers reaching plaintiff and other individual, orders were given to put hands up turn around and face wall on side of building. At such time plaintiff was rear cuffed facing wall and pat down from head to shoes by officer Donyo. Plaintiff was then ordered to face forward while rear cuffed, his jacket zipped down, and inside confines of jacket was then searched.

2) At such time pedestrians began to gather and observe the arrest. One pedestrian of whom was walking a couple of feet behind plaintiff and other individual as before and after both officers jumped out of the yellow taxi cab started recording incident with a video device. Plaintiff was the only one rear cuffed and officer Donyo stood plaintiff still while he searched surrounding area for contraband. After no contraband was found, Donyo walked plaintiff while cuffed to driver's side of taxi cab and stood

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plaintiff plaintiff there while he got in car with door open and proceeded to do a warrant check of plaintiff.

3) After it was determined no warrants were issued plaintiff, Donyo stated "Complaints were being made about vagrants in the area", gave plaintiff his I.D. back, took cuffs off and told plaintiff he was free to go. Plaintiff remained rear cuffed for approximately 30 to 40 minutes, jacket zipped down on a January night. Pedestrian of whom recorded incident handed Plaintiff his business card in order a copy of recording may be obtained. Plaintiff is in possession (by means) of such recording at this present date.

## VI. Relief Sought

### Federal

1. Plaintiff seeks compensatory damages from defendant City of New York for having long standing custom as found unconstitutional by this Court as to be violative to a plaintiff class based on verbatim facts, incidents and/or scenarios as herein alleged; for failure to implement such due process procedures in

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effect to report / compensate / vindicate a citizens  
for unwarranted intrusion and restraint,  
(4th, 14th, Monell).

2. Plaintiff seeks compensatory damages from defendant City of New York for reckless indifference to curb incidents of herein alleged as on notice for such post \* Daniels 99-cv-1695 (SDNY); \* Floyd 08-cv-1034 (SDNY); \* Ligon 12-cv-2274 (S.D.N.Y.).
3. Plaintiff seeks compensatory damages against defendant Police Officer Donyo for 4th Amendment violations as departments detective executing a prolonged unwarranted restraint and adding unnecessarily ~~plaintiff~~ to plaintiff being exposed to elements of winter night while handcuffed, (False Arrest).
4. Plaintiff seeks Punitive Damages against defendant Bernstein for acquiesce / complicity in violation of plaintiff's 4th Amendment Rights while serving as officer in departments Emergency Service Unit.

### State

5. Plaintiff seeks compensatory damages against defendant Donyo for \*Assault, as where the

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threat and fear of harmful contact appeared.

6. Plaintiff seeks compensatory damages against defendant Donzo for Battery, as where an intentional offensive touching without lawful justification appeared.
7. Plaintiff seeks compensatory and punitive damages against defendant Bernstein; Donzo for the Intentional Infliction of Emotional Distress, as where reckless disregard to plaintiff's person appeared when left rear suffed exposed to winter temperature without just cause for an extended period as an extreme and/or outrageous act.

Signed this 26<sup>th</sup> day of December 2016

Lenard Berrian  
16A0127  
354 Hunter Street  
Ossining, NY 10562

I declare under penalty of perjury that on this 26<sup>th</sup> day of December <sup>(2016)</sup>, I placed this complaint in the Facility's mailbox for United States Postage services to be mailed to the Pro Se Office of United States District Court, located at 500 Pearl Street, NY, NY 10007.

Lenard Berrian

To: Clerk of United States District Court  
Southern District New York

From: Lenard Berrian #16A0127

Sing-Sing Corr. Fac.      New  
354 Hunter Street      Address  
Ossining, NY 10562

Date: December 26, 2016

Subj: Could please file the enclosed  
Amended Complaint of:

Berrian v. City of New York, et al.  
16-cv-07387 (JGK).

Thank you for your assistance on this  
matter.

A. L. Berrian



